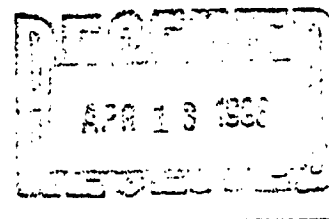


NORTH DELTA WATER AGENCY

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April 3, 1998

Lester Snow
Executive Director
CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, California 95814

Re: Impacts of Implementing the Ecosystem Restoration Program Plan in the North Delta Water Agency

Dear Mr. Snow:

On behalf of the North Delta Water Agency (Agency), I would like to thank Dick Daniel of your staff for meeting with Directors of the Agency and members of the public on January 21, 1998 in Walnut Grove. The Agency's Board of Directors very much appreciated the opportunity to hear Mr. Daniel's description of the Ecosystem Restoration Program Plan (the ERPP) and ask questions concerning the potential impacts of the ERPP on the Agency and its landowners.

The Agency still has a number of questions and concerns regarding the potential impacts of the ERPP on landowners within the Agency and on the Agency itself. The Agency - like the rest of the California water community - has just received the CALFED programmatic EIS/EIR and trusts that some of the answers to the questions discussed below will be found in that document. The Agency would, nonetheless, appreciate answers to the following questions that relate to the northern Delta at your earliest convenience.

1. *Land Acquisition.*

CALFED estimates that it will seek to restore up to 191,000 acres of habitat over a 25 year period in the Sacramento-San Joaquin Delta. Of that acreage, CALFED intends to restore between 98,000 and 115,000 acres for various wetlands types, aquatic and other upland habitat. This does not include an additional 40,000 to 70,000 acres of farmland that will be managed as wildlife friendly agricultural land.

As a threshold matter the Agency questions whether CALFED's intent is to restore historical habitat or create habitat that never before existed. The Agency understands the rationale for the restoration of historical habitat. The Agency is unpersuaded as to the need to create habitat that lacks historical basis. We request that you provide to the Agency the historical and scientific justification for restoring these lands by specific area.

The Agency believes that it is unlikely that CALFED will, as a practical matter, be able to create between 80,000 and 95,000 acres of habitat on the central Delta islands or in the southern Delta. Accordingly, the most attractive place for CALFED to locate these types of habitat will be within the Agency on lands within the Delta uplands. The creation and/or restoration of that quantity of habitat within the northern Delta has the potential to eliminate much of the acreage presently used within the boundaries of the Agency for agricultural purposes and greatly affect the economic viability of those who remain in agriculture, not to mention the loss of income to the region's communities. The Agency requests clarification from CALFED on how and where (or whether) it intends to meet the habitat creation/restoration targets described in the ERPP if appropriate lands in the southern and central Delta can not be found.

In our opinion, any proposal to create nearly 100,000 acres of wetlands and other habitats in a farming area comprising 230,000 acres surely will be a significant impact on the North Delta regional area.

2. Impacts of Land Acquisitions.

We believe that land acquisitions, even on a "willing seller-willing buyer" basis, will cause significant impacts to surrounding economic communities. In many cases CALFED policies relating to land acquisitions may actually undermine CALFED's stated principle of acquiring land for habitat restoration only on a "willing seller-willing buyer" basis.

a. Assessment Payments Must Be Made by Public Agencies

The Agency has observed that as land passes into state or federal ownership, assessments imposed by local reclamation districts or other public entities on remaining landowners tend to increase dramatically. This is because state and federal agencies have not, as a general matter, paid their fair share of the assessments or other charges needed to continue to operate local public agencies after they acquire lands. Consequently the remaining private landowners have had to assess themselves at ever more exorbitant rates until the local agency is no longer economically viable.

The Agency notes that Proposition 218 (California Constitution Articles X111C and X111D) requires that all California public agencies assess lands owned by other public agencies in the same fashion as if those lands were owned by private individuals. However, it is doubtful that federal agencies will be required to or will voluntarily make these payments.

To ensure that the CALFED Program does not weaken the financial integrity of these districts CALFED must require the title to all land acquired under the auspices of the CALFED Program be held by a California public agency or a private non-profit entity and that they agree, as a condition to receiving any CALFED funding, to pay in perpetuity all assessments and charges at a rate equal to that paid by private landowners.

b. Changes in Policies Can Affect Landowners' Ability to Farm

Because state and federal agencies have differing priorities from farmers, districts where significant quantities of lands are owned by public agencies tend to adopt policies that undermine landowners' ability to farm. Under these circumstances local public agencies can quickly, whether intentionally or not, create an environment that makes it difficult, if not impossible for private landowners to continue farming, or maintain levees or other works for flood control. CALFED should adopt a Good Neighbor Policy that requires the acquiring entity to respect and not interfere with existing land uses. The Agency would be pleased to work with CALFED - and other interested parties such as the California Farm Bureau Federation - to develop such a policy.

c. The CALFED Plan May Reduce County Revenues

Policies that discourage farming by reducing income and land values, may inhibit local communities from providing adequate community services, including funding for schools, health care and other important programs. As a result of such policies, landowners become reluctantly willing to sell their land to public agencies seeking to acquire land for habitat. The Agency believes that these types of sales do not, in the long-run, contribute to the overall health of a particular region and are not really representative of a "willing seller's situation."

The Agency requests that CALFED clarify its understanding of the principle of "willing seller-willing buyer" and offer landowners some form of assurance that public agency representatives serving on local irrigation, reclamation or other similar districts will not engage in the types of practices that have eradicated farming from certain Delta islands.

d. Wildlife Friendly Farming Activities.

Many of the programmatic actions described in the ERPP would provide incentives to farmers to shift their cropping patterns to grow more wheat, corn and other crops of high forage value which, in some cases, may use more water and are of relatively low commercial value. Other actions proposed in the ERPP would increase the number of acres of Delta farmlands flooded during the spring and, to a certain extent, throughout the entire year, in order to provide additional habitat. The Agency believes that in many respects, these activities in the North Delta could have more than "minimal impacts to agricultural lands" as envisioned by CALFED.

For example, we believe that CALFED's plan to encourage cropping pattern changes and other activities to enhance wildlife unintentionally could encourage urbanization on the margins of the Delta. This could occur because of the reduced value of agricultural products per acre and the reduced ability of farms to respond to changing market demands or to respond to crop diseases.

In addition, once neighboring landowners sell farms for restoration purposes, causing assessments for operation and maintenance to increase as stated in paragraph a. above, farmers may not have the ability to shift to higher economic value crops. As a result these practices may undermine the financial integrity of either agricultural water or drainage districts and the economic viability of rural communities. Under these conditions some land owners may not accept incentives to help restoration efforts and move into higher capital producing

activities.

The agency requests that CALFED describe in detail the reason(s) it believes the modifications required by these actions will have a minimal impact on agricultural lands including a discussion of the above issues. Included within that explanation should be CALFED's definition of the term "minimal."

3. *Impacts on the Regional Economy.*

Closely associated with the issue of whether or not public agencies acquiring lands for habitat pay assessments is the more general question of the impacts of such land acquisition on the regional economy of the Delta. The Agency is concerned that by converting a large percentage of lands currently in agriculture to habitat, CALFED could - unintentionally - have a significant adverse impact on the regional economy.

The Agency requests copies of any analyses that CALFED may have performed on this issue and seeks written assurances from CALFED that it will take appropriate actions to mitigate any such third-party impacts. The Agency believes that such actions are consistent with - and indeed required by - CALFED's solution principle that forbids significant redirected impacts.

4. *Impacts on the North Delta Agreement*

The Agency is concerned that the policies under consideration by CALFED may have an adverse impact on the State of California's obligation to abide by the terms of its 1981 agreement with the Agency. Under the terms of that agreement, the State of California agrees to provide landowners within the Agency with a water supply sufficient in both quantity and quality to meet their needs.

The Agency requests written confirmation from CALFED that the implementation of CALFED's proposed programs in the northern Delta will not in any way interfere with the State of California's performance of its obligations under its agreement with the Agency.

5. *Written Assurances, Safe Harbors and no Surprises.*

The Agency is quite concerned about the potential impacts on farmers of the creation of large amounts of habitat for threatened or endangered species.

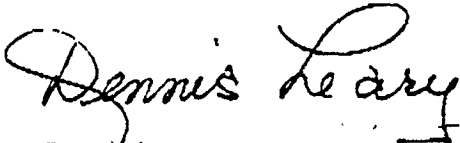
Specifically, the Agency is concerned that the creation of additional habitat for threatened or endangered species may result in additional restrictions being placed on the activities of farmers within the Agency, and for that matter throughout the entire CALFED solution area. To avoid any such result the Agency requests that, prior to the acquisition of any lands for habitat, CALFED negotiate with the Agency (and/or other appropriate parties) a written assurances agreement under the auspices of the Department of Interior's "No Surprises" and "Safe Harbors" policies. That agreement should provide that CALFED's activities within the boundaries of the Agency will not in any way preclude the continuation of reasonable agricultural practices. The agreement should also provide a blanket incidental take permit both

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for species presently listed and for species that may be listed in the future. The Agency stands ready to negotiate such an agreement.

Thank you very much for your prompt response to these questions. Please feel free to contact Robert Clark, the Manager of the Agency, at (916) 446-0197 if you or your staff have any questions concerning this letter.

Very truly yours,



Dennis Leary
President
North Delta Water Agency

cc: Board of Directors
California Farm Bureau Federation
Central Delta Water Agency
Delta Protection Commission
Sacramento County Board of Supervisors
San Joaquin County Board of Supervisors
Solano County Board of Supervisors
South Delta Water Agency
Yolo County Board of Supervisors
Sacramento County Board of Supervisors
Reclamation Districts

